

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STACY HAWKINS,

Plaintiff,

v.

No. 02-74639

Hon. John Corbett O'Meara

CORRECTIONAL MEDICAL SERVICES,  
INC., et al.,

Defendants.

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**OPINION AND ORDER DENYING PLAINTIFF'S MOTION TO ALTER OR AMEND**

Plaintiff, a prisoner acting pro se, filed suit against the defendant, a medical provider contracted by the State of Michigan to provide medical care to inmates. On January 27, 2005, Magistrate Judge Steven Whalen filed a report and recommendation to dismiss the case with prejudice pursuant to both Federal Rules of Civil Procedure 12(b)(6) and 56. This court adopted the Magistrate's report and recommendation in an order dated March 1, 2005. On March 9, 2005, Plaintiff filed a Motion to Amend or Alter. Defendant filed a response on March 22, 2005, and Plaintiff filed a reply on April 5, 2005.

Plaintiff claims that summary judgment was not warranted because discovery had not yet taken place. However, Magistrate Judge Whalen's report determined that the facts plaintiff alleged failed to state a claim under which relief could be granted, pursuant to Fed. R. Civ. Pro. 12(b)(6). Discovery is not necessary before a case is dismissed pursuant to Fed. R. Civ. Pro. 12(b)(6). Even if discovery were necessary, plaintiff had ample opportunity to engage in discovery from the date of filing on November 21, 2002 until the Motion for Dismissal and/or Summary Judgment was filed on March 2, 2004.

Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's March 9, 2005 Motion to Alter or Amend is **DENIED**.

s/John Corbett O'Meara  
John Corbett O'Meara  
United States District Judge

Dated: June 21, 2005